



## **Walker River Paiute Tribe**

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### **RESOLUTION OF THE GOVERNING BODY OF THE WALKER RIVER PAIUTE TRIBE RESOLUTION NO. WR-74-2017**

#### **BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE WALKER RIVER PAIUTE TRIBE THAT:**

**WHEREAS**, the governing body of the Walker River Paiute Tribe is organized under the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat 984) as amended, to exercise certain rights of home rule and to be responsible for the promotion of the economic and social welfare of its members; and

**WHEREAS**, the Tribe has the responsibility to serve the Tribal Members and residents of the Walker River Paiute Reservation, to protect its natural and cultural resources and to ensure the safety of its members; and

**WHEREAS**, the Tribe has the responsibility to protect and manage its sovereign lands in a manner that ensures the lands suitability for current use and its benefit for future generations; and

**WHEREAS**, a deferral process has been proposed for the Yerington Anaconda Mine CERCLA site that will result in the Nevada Division of Environmental Protection becoming the lead agency for the site; and

**WHEREAS**, the Yerington Anaconda Mine CERCLA site lies within the traditional range of the Tribe; and

**WHEREAS**, a portion of the Yerington Anaconda Mine CERCLA site is located on Tribal property; and

**WHEREAS**, the United States Environmental Protection Agency has directed the Nevada Division of Environmental Protection to develop an MOU with the Walker River Paiute Tribe as directed by United States Environmental Protection Agency guidance documents (EPA/540/F-95/002); and

**WHEREAS**, the Nevada Division of Environmental Protection or State of Nevada does not have an MOU with the Walker River Paiute Tribe applicable to the

deferral process or CERCLA decisions at the Yerington Anaconda Mine CERCLA site; and

**THEREFORE BE IT RESOLVED** that the Walker River Paiute Tribal Council does hereby direct The Walker River Paiute Tribe GAP Program to request that the agencies address the following items prior to development of MOU(s) related to deferral:

**1 Financially Support the Tribal Environmental Department**

The Tribe receives a Superfund grant that is restricted to Superfund activities such as document review, associated sampling and support for participating staff and consultants. This type of grant funding for Tribes is typical for CERCLA sites that involve tribes. The Environmental Program also uses several other grants with some funding attributable to site issues; for example, the General Assistance Grant also includes Superfund work plan components. Adding to this, the Tribe has more competitive SDWA 106 and other EPA grants that not only have Superfund components, but the Tribe is more likely to be funded because of the CERCLA status of the site. This financial requirement is expected to increase with increased activity at the site and economic inflation.

If the site becomes CERCLA deferred, the funding would need to be replaced by the State of Nevada or the responsible party, ARC. In summary, a commitment to fully fund the Tribe's Environmental Office is expected to be in any CERCLA deferral agreement with ARC. It is noteworthy that under the CERCLA process, EPA funds the Tribe and seeks compensation from ARC; the State of Nevada, with NDEP as the lead agency at the site, would then have to guarantee the funding under a deferred process.

**2 Support Community Outreach at the Tribe**

The now outdated Community Involvement Plan (CIP) will need to be completed before deferral should be considered. This would allow the Tribe to better participate in the process and since exposure to mine waste by Tribal members can be unique in the community, the CIP and subsequent financial support for community outreach will need to specifically include funds for Walker River Tribal Departments to collect the needed data and information from Tribal members and the Reservation in general. This will insure continued protection of cultural resources.

**3 Develop a process for the Tribe to review, comment, participate in and approve workplans, reports and other site documents that include decisions and principle work**

The Walker River Paiute Tribe has Treatment as a State status and although the Tribe works closely with NDEP as an important partner, there is a jurisdictional

issue that will need to be addressed for the section of the site on property managed by the Tribe. This path is well defined under the CAA, CWA and CERCLA for EPA lead, but the State of Nevada will be expected to provide a likely precedent setting acknowledgement of Tribal rights if deferral is to proceed. This may include but is not limited to committing to accepting Tribal Environmental Ordinances regionally; including areas throughout the Walker River Watershed and allow the Tribe a final decision making role in much of the site planning.

#### **4 All Work Will Include Onsite Cultural Monitors**

The site includes Tribal property and is entirely within the historic range of the Tribe. Mason Valley is rich in cultural sites and artifacts that can be uncovered or disturbed during construction and even general land management. The use of cultural monitors at CERCLA sites is common and the Tribe expects the State to not just suggest or support but enforce this practice to protect cultural resources and guarantee CERCLA equivalent practices.

#### **5 Tribal Preference for Hiring Both Site Staff and Contractors**

The Navaho Tribe and even some U.S. EPA Region 9 sites have pioneered Tribal and local preference in hiring for CERCLA sites. The Tribe can work with the lead agencies and the RPs to identify and even train Tribal members and contractors.

#### **6 Meet NRDA Needs for the Site**

*This issue is addressed directly by correspondence provided by the Yerington Anaconda Mine NRDA Trustee Council of which the Tribe is a member.*

#### **7 Identify and designate areas that will include key restoration projects along the Wabuska Drain and Walker River**

The Tribe is in the early stages of planning habitat restoration in and near OU7. Those areas should be generally identified prior to deferral to scope the impact of this process, allow planning by the Tribe and ensure initial funds are made available through the state and ARC. The funds can be used to adapt the process to non-CERCLA management and involve agency partners.

**8 Support USGS efforts regarding surface water/groundwater monitoring and modeling in the Walker River Watershed**

The Tribe has a long history of working with the USGS regarding mine derived contamination in the Walker River Watershed. Some of this work is described in "Trace Element and Radionuclide Concentrations in Walker River Bottom Sediment and Weber Reservoir Sediment Core, West-Central Nevada, 2005" by Carl Thodal and Micheal Lico (Journal of the Nevada Water Resources Association, Fall, 2006). Results of that study were consistent with the presence of mine waste from the Anaconda Mine in Weber Reservoir on Tribal trust property.


Since recent conclusions of ARC in the Field Sampling and Analysis Plan Data Summary Report and Conceptual Site Model Update from January 3, 2017, are contrary to the USGS publication and EPA comments on the document from March 31, 2017, the Tribe believes additional support is needed for the USGS Tribal partnership using funds from ARC to provide critical data.

**9 Responsibility to meet expenses for NEPA and other regulatory compliance on restoration projects on and near OU7**

The Tribe has successfully completed/participated in a number of ecological restoration programs in the Walker River Watershed. These programs are key to restoration that would include OU7, which would be NEPA exempt under CERCLA. The additional expense of permitting outside of CERCLA will need to be estimated and the liability assumed by ARC.

**CERTIFICATION**

It is hereby certified that the foregoing Resolution of the Walker River Paiute Tribal Council composed of seven members, of whom 5 constituting a quorum were present at a meeting on the 21<sup>st</sup> day of June, 2017, and that the foregoing Resolution was adopted by the affirmative vote 4 -FOR, 0 AGAINST, 0 -ABSTENTIONS, pursuant to the Constitution of the Walker River Paiute Tribe of Nevada, approved on March 26, 1937.

  
John Lockwood, Tribal Council Secretary  
Walker River Paiute Tribe